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HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
(DIVISION BENCH)

CORAM : Hon'ble Shri S.R. Nayak, CJ
Hon'ble Shri Satish K. Agnihotri, J.

Misc. Appeal No. 768 OF 2005

Appellants Applicants

1. Smt. Rekha Das, aged about 47 years, W/o Late K.M. Das
2. Devashree Das, aged about 24 years, D/o Late K.M. Das
3. Pamel Das, aged about 23 years, D/o. Late K.M. Das
4. Soumi Das, aged about 20 years,
All R/o B-293, Fase -II, Rajkishore Nagar, Bilaspur Tah & Distt. Bilaspur (C.G.)

Versus

Respondents Non-Applicants

1. Abdul Abbas
S/o Bashir Mohhemad, R/o Kharsia Chowk, Tah. Ambikapur, Distt. Sarguja (C.G.) (Bus Owner)
2. Umashankar Tiwari aged about 29 years, R/o Imalipara, Ambikapur, Tah. Ambikapur, Distt. Sarguja (C.G.) (Bus Driver)
3. United India Insurance Co. Ltd. Medhekar Complext, Rajendra Nagar Chowk, Bilaspur (C.G.) (Bus Insurer)
4. Vidya Sagar Pandey, aged about 45 years, S/o Ram Mangal Pandey Contractor, R/o Vidyut Nagar, Tifra, Tah. & Distt. Bilaspur (C.G.) (Truck Owner)
5. Raghav Jha, aged about 30 years, S/o Shivnarayan Jha, R/o through Shri Vidyasagar Pandey, Contractor Vidyut Nagar, Tifra, Tah. & Distt. Bilaspur (C.G.) (Truck Driver)
6. New India Insurance Co. Ltd. Branch Bilaspur (C.G.) (Truck Insurer)
7. Gannulal Mahto, S/o D.C. Mahto R/o Kalika nagar, Tifra, Tah. & Distt. Bilaspur

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Present:

Mr. A.K. Dwivedi learned counsel for the appellants.

Mr. Ali Asagar learned Counsel assisting Mr. Prashant Jaiswal, learned Sr. Advocate for respondent No.3.

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ORAL ORDER
(Passed on 13th of December 2005)

The following order of the court was passed by

S.R. Nayak, CJ.

The dependents of the deceased have preferred this appeal praying for more compensation. Learned counsel for the appellants would contend that though the MACT had taken the age of the deceased between 50-55, it has wrongly applied multiplier 10 instead of 11 for assessing loss of dependency. It was also contended that the MACT is not justified in deducting a sum of Rs.7000/- from the gross salary of the deceased for the purpose of assessing loss of dependency. We find merit in the first contention and no merit in the second contention. The MACT having taken the age of the deceased between 50-55, in terms of second Schedule, ought to have applied multiplier of 11. If we apply multiplier of 11, the total loss of dependency would come to Rs.11,44,044/-.

The MACT has made deductions from the gross salary of the deceased towards income tax, provident fund, insurance, professional tax etc., and they are permissible heads under which deductions could be made.

In the result, we allow the appeal in part and award a sum of Rs.11,44,044/- under the head of 'loss of dependency' as against Rs.10,40,040/- awarded by the MACT. In all other respects, the impugned award shall stand unaltered. In the facts and circumstances of the case, the parties shall bear their respective costs.

Sd/-
Chief Justice

Sd/-
Satish K. Agnihotri
Judge

Sybby